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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

ROCKY MOUNTAIN WILD,
BIODIVERSITY CONSERVATION
ALLIANCE, COTTONWOOD
ENVIRONMENTAL LAW CENTER, and
WILDWEST INSTITUTE,

Plaintiffs,

v.

U.S. FISH & WILDLIFE SERVICE,
DANIEL M. ASHE, and S.M.R. JEWELL,

Defendants.

No. 13-cv-42-DWM

**STIPULATION ON FEES
AND COSTS**

This Stipulation is entered into by and between Plaintiffs Rocky Mountain Wild, Biodiversity Conservation Alliance, Cottonwood Environmental Law Center, and Wildwest Institute (“Plaintiffs”), and the United States Fish and Wildlife Service, Daniel M. Ashe, and S.M.R. Jewell (“Defendants”).

WHEREAS, Plaintiffs filed their amended complaint in this matter on February 2, 2013, alleging that Defendants' determination not to list the white tailed prairie dog as "threatened" or "endangered" under the Endangered Species Act ("ESA") violated the ESA and the Administrative Procedure Act;

WHEREAS, the Court granted summary judgment to Plaintiffs in part and to Defendants in part on September 29, 2014;

NOW, THEREFORE, IT IS STIPULATED BY AND BETWEEN THE PARTIES AS FOLLOWS:

1. Defendants agree to pay Plaintiffs reasonable attorneys' fees and costs pursuant to section 11(g) of the ESA, 16 U.S.C. § 1540(g). Defendants therefore agree to settle all of Plaintiffs' claims for costs and attorneys' fees in this matter for a total of \$109,000.00. An electronic payment in the settlement amount of \$109,000.00 will be made to Great Western Bank in Denver, Colorado.

2. Plaintiffs agree to furnish Defendants with the information necessary to effectuate payment pursuant to Paragraph One and to hold the United States harmless for any loss caused by following this authorization and direction, if any loss should occur. Defendants agree to submit all necessary paperwork for the processing of the attorneys' fees award to the Department of the Treasury's Judgment Fund Office within ten business days of the filing of this Stipulation or

the receipt of the information described in this Paragraph, whichever is later.

3. Plaintiffs agree to accept payment of \$109,000.00 in full satisfaction of any and all claims for attorneys' fees and costs of litigation in this matter up to and including this date. Plaintiffs agree that receipt of this payment from Defendants shall operate as a release of Plaintiffs' claims for attorneys' fees and costs in this matter.

4. Plaintiffs reserve the right to seek additional fees and costs incurred subsequent to this Stipulation arising in any future litigation or continuation of the present action. Defendants reserve the right to contest fees claimed by Plaintiffs or Plaintiffs' counsel, including hourly rates and the number of hours billed, in any future litigation or continuation of the present action. Further, this Stipulation as to attorneys' fees and costs has no precedential value and shall not be used as evidence in any other attorneys' fees litigation.

5. Nothing in this Stipulation shall be interpreted as, or shall constitute, a requirement that Defendants are obligated to pay any funds exceeding those available, or take any action in contravention of the Anti-Deficiency Act, 31 U.S.C. § 1341, or any other appropriations law.

6. The parties agree that this Stipulation was negotiated in good faith and that this Stipulation constitutes a resolution of claims that were denied and

disputed by the parties. By entering into this Stipulation, the parties do not waive any claim or defense.

7. The undersigned representatives of each party certify that they are fully authorized by the party or parties they represent to agree to the terms and conditions of this Stipulation and do hereby agree to the terms herein.

Respectfully submitted this 8th day of July, 2015.

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KRISTEN L. GUSTAFSON,
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/s/ Travis J. Annatoyn
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